

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

CLERK, U.S. DISTRICT COURT

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Came on for consideration the above-captioned action wherein Melodie Gaye Spears is plaintiff and Nancy A. Berryhill, Acting Commissioner, Social Security Administration is defendant. This is an action for judicial review of a final decision of the Commissioner denying plaintiff's claim for a period of disability and disability insurance benefits and supplemental security income benefits under the Social Security Act. On November 16, 2018, the United States Magistrate Judge issued his findings, conclusions and recommendation ("FC&R"), and granted the parties until November 30, 2018, in which to file and serve any written objections thereto. On November 26, 2018, plaintiff filed her objections. On December 17, 2018, the Commissioner filed her response to the objections. After a thorough study of the record, the magistrate judge's proposed findings and conclusions, and applicable legal authorities, the court has concluded that

plaintiff's objections lack merit and that the recommendation of the magistrate judge should be accepted.

The record reflects that the Administrative Law Judge ("ALJ") properly considered, but gave limited weight to the form letter completed by plaintiff's neurologist, Danny Bartel, M.D., whose treatment notes did not corroborate the level of limitations reflected therein. Doc.¹ 8 at 25. The treatment notes show that plaintiff saw Dr. Bartel for facial pain that did not otherwise affect her body, e.g., her balance and gait, coordination, fine motor skills, etc. Id. at 266-87, 307-09, 396-98, 463-65.

The ALJ properly considered plaintiff's testimony, Doc. 8 at 36-47, and determined that she had no limitation as to activities of daily living or social functioning and mild limitation in the area of concentration, persistence or pace.² Id. at 23. Specifically, plaintiff's statements concerning the intensity, persistence, and limiting effects of her symptoms were not consistent with the medical evidence. Id. at 25.

The court accepts the recommendation of the magistrate judge and ORDERS that the decisions of the Commissioner that, based on

¹The "Doc. ___" reference is to the number of the item on the docket in this action.

²Despite the efforts of plaintiff's attorney, plaintiff testified that there had been no change in her daily activities, Doc. 8 at 45, and that she only had bad days of depression every 3 to 4 months, id. at 46.

the application for a period of disability and disability insurance benefits filed January 26, 2015, plaintiff was not disabled under sections 216(i) and 223(d) of the Social Security Act, and based on the application for supplemental security income filed July 21, 2015, plaintiff was not disabled under section 1614(a)(3)(A) of the Social Security Act, be, and are hereby, affirmed.

SIGNED December 18, 2018.



JOHN MCBRYDE
United States District Judge